

CASCADE COUNTY
ZONING BOARD OF ADJUSTMENT
Meeting Minutes
September 17, 2019
09:00 AM
Room #105, Courthouse Annex
Cascade County Commissioners Chambers

Board Members: Bill Austin, Charles Kuether, Michele Levine, Leonard Reed, and Rob Skawinski

Notice: Pursuant to MCA 2-3-212(1), the official record of the minutes of the meeting is in audio form, located at cascadecountymt.gov and the Planning Office. This is a written record of this meeting to reflect all the proceedings of the Board. MCA 7-4-2611 (2) (b). Timestamps are indicated in red, within each agenda item below, and will direct you to the precise location should you wish to review the audio segment.

These minutes are **paraphrased** and **reflect** the proceedings of the Zoning Board of Adjustment. These minutes are considered a draft until formally approved by the Zoning Board of Adjustment.

Staff Present: Michael Stone, Destiny Gough, Sandor Hopkins, Carey Ann Haight, and Charity Yonker.

Public Attendees: Andy Blewett, Jon Borland, Eileen Hyndman, Bob Kuntz, David McDonald, Shirley Lynch McDonald, Phil Nappo, Marian Prue, Ann Rockwell, Nick Rockwell, Dylan Ruiz, Burkee L. Tyree, and Craig Warren.

1. **CALL TO ORDER:** Bill Austin called the meeting to order at 09:02 AM
2. **ROLL CALL**

BOARD MEMBERS PRESENT: Bill Austin, Charles Kuether, Michele Levine, Rob Skawinski, and Leonard Reed.

BOARD MEMBERS ABSENT: None.

3. **APPROVAL OF MINUTES:**
 - A. June 27, 2019, Meeting Minutes
 - B. August 28, 2019, Meeting Minutes (Pending Completion)
 - C. September 17, 2019, Meeting Minutes (Pending Completion)

4. **OLD BUSINESS:** None.

5. **NEW BUSINESS:**

- A. SUP 012-2019, Shopping Center – Burke Tyree

1. Staff Report by Michael Stone
2. Board Discussion & Action

Board Discussion

Burke Tyree (00:26:05): says that he has been trying for a year now to get this building to be a restaurant once more. Then, he thanks the Board.

Charles Kuether (00:26:36): states the Board has received an additional written comment from Ryan Byrd this morning regarding this Special Use Permits. He asks if Mr. Tyree has received a copy or has read this comment yet.

Burke Tyree (00:26:46): responds no.

Charles Kuether (00:26:47): asks if the staff or the Board has an extra copy to allow Mr. Tyree the opportunity to read that written comment.

A staff member gives Mr. Tyree a copy of that written comment to read. Mr. Tyree reads the written comment.

Charles Kuether (00:27:08): asks regarding that written comment's request for a fence to be installed, what does the applicant make of the request.

Burke Tyree (00:27:21): says that he finds it a suitable request.

Charles Kuether (00:27:28): asks if the applicant would have an issue if they added the fence maintenance to the list of conditions.

Burke Tyree (00:27:35): responds that he would ensure that the buyers of the property would be aware of that condition if added.

Public Hearing opened at 09:30 AM

Bill Austin asked for proponents.

Andy Blewett at 324 44th Great Falls, MT 59405 (00:28:18): asks if Missouri River Diner's owner is from North Dakota.

Burke Tyree (00:28:48): says that the owner is from Texas. He says the restaurant fell out of zoning over the last year or so, which is why there have been difficulties getting the restaurant up and running again.

Andy Blewett (00:29:08): says that online a website suggests that it is a North Dakota company that this restaurant is a part of.

Burke Tyree (00:29:30): says that he is not sure.

Andy Blewett (00:29:32): asks if Greg Jones is the owner from Texas and if he has been the owner for the last three (3) years.

Burke Tyree (00:29:43): replies yes.

Andy Blewett (00:29:45): asks if this is the same owner who owned the business ten (10) years prior or if this is a new project and owner.

Burke Tyree (00:30:00): replies that it is a new project with the new owner, Greg Jones. He says that Greg Jones is trying to sell the restaurant currently. He says the current potential buyer has a restaurant in Seattle, Washington.

Andy Blewett (00:30:26): asks if Greg Jones is going to run the restaurant.

Bill Austin (00:30:27): says that he is currently asking for proponents. He asks the gentleman if he is a proponent.

Andy Blewett (00:30:34): replies that he is a proponent, but he had several questions regarding the Special Use Permit (SUP).

Bill Austin understands.

Andy Blewett (00:30:41): asks what the owners' interest is in having cameras.

Burke Tyree (00:30:59): replies that the owners have little interest in having cameras.

Andy Blewett (00:31:02): asks if the potential buyers have an interest in buying all of Greg Jones's property.

Burke Tyree (00:31:07): replies that they do not appear to have an interest in all his property.

Andy Blewett (00:31:10): thanks the Board. Then, he states that he is a proponent of this project.

Burke Tyree (00:31:25): states that he has a signed petition with numerous signatures, for people who are in favor of this SUP.

Bob Kuntz at 707 Sandpaper Dr. Great Falls, MT 59404 (00:31:44): says that he and his wife are in favor of this proposal as his family has been going to the restaurant in the past for years. He says that having a convenient store now being apart of the business would be beneficial to the local community surrounding the property. He ends by thanking the board.

Shirley Lynch McDonald at 2474 Old US Hwy 91, Cascade, MT 59421 (00:33:27): says that she owns the RV park that is the adjoining properties to this proposal. She says that she and her husband hope this proposal will go through for several reasons. She says that they have been helping to protect this SUP's property for a while now from things such as trespassers, vandalism, etc. She says that tourism in that area has grown. She says tourists and residents currently must travel at least twenty miles (20 mi) to get some more supplies. The tourist and the residents in that area need and are looking for supplies that are close in proximation, which this SUP can service. She says having this building back in operation will also help to limit the number of illegal activities that occur in that area, as many unwarranted activities are occurring on this property for it is no longer in service. She says that many tourists and residents would like to see this business running at some capacity once more or at least become a historic building. She says that there has been concern over who are the prior owners and concern as to whether this building will become out of service again.

Bill Austin asked for opponents.

Public Hearing closed at 09:40 AM

Board Discussion and Decision

Michele Levine (00:38:13): says that she has a question for Mr. Tyree. She asks if she could have more information on the proposed buyers from Seattle, Washington.

Burke Tyree (00:38:25): says that the buyers are being funded today and their purchase will go through on Thursday. They own the Viking Bar in Washington and are originally from Great Falls, Montana. They will maintain their business in Washington and plan to have a restaurant in Montana.

Michele Levine (00:38:51): asks if the Buy-Sell is going through today.

Burke Tyree (00:38:52): replies that they are receiving funding today, but the Buy-Sell goes through on Thursday.

Michele Levine (00:38:56): asks who the potential buyers are.

Burke Tyree (00:38:58): replies that their names are Skyler and Hailey Meyer.

Michele Levine (00:39:11): asks what the proposed timeline for this project is if approved.

Burke Tyree (00:38:58): replies that the buyers would like to have it completed as soon as possible. They hope for it overall to be finished in the year 2020.

Michele Levine (00:39:44): asks if this business would be a year-round operation.

Burke Tyree (00:39:44): replies that they plan to have it opened all year long.

Leonard Reed (00:39:50): states that he has been wondering for years if this business was going to be running again. He then goes on to ask if this shopping center will have multiple stores inside or will there only be one (1) store inside.

Burke Tyree (00:40:12): replies that this restaurant fell out of business. Since it fell out of business, it lost its grandfathered zoning after a year. This business could no longer be an area zoned for a restaurant. The land became a part of the Agriculture District. To help restore the restaurant, they decided to classify it as a shopping center by adding a convenience store to the restaurant.¹ He says the convenience store will be small. The shopping center along with the restaurant and the convenience store will be operated and owned by the potential buyers, the Meyers.²

Bill Austin (00:41:00): says that a convenience store is needed in that area.

Burke Tyree (00:41:04): agrees and says that it was the Meyers' idea.

The Board members discuss with one another.

Charles Kuether (00:41:33): motions to "[...] [m]ove the Board adopt the staff report and findings of fact and approve the Special Use Permit to allow a shopping center at the subject property subject to the following conditions:

1. The applicant obtains all required local, state, and federal permits and/or licenses. Specifically, the following:
 - a. The applicant obtains approval from DEQ for the public water and sewer (PWS) system on-site with respect to the proposed land use.
 - b. The applicant satisfies all minimum required alterations and approvals provided by the City-County Health Department.
 - c. The applicant obtains any required electrical, plumbing, and/or building permits from the Department of Labor and Industry Building Codes Bureau.
 - d. The applicant obtains the necessary licenses for serving alcoholic beverages.
2. The applicant installs shielding for any outdoor area lighting to ensure that the lighting does not illuminate areas outside the subject property.

¹ A shopping center is a permitted use upon issuance of a Special Use Permit in the Agricultural District. For more information on what is not permitted in the Agricultural District please see "§7.2 Agricultural District" in the Cascade County Zoning Regulations at http://www.cascadecountymt.gov/df/departments/public-works/planning/2018_FINAL_CascadeCountyZoningRegs.pdf?v=1542840838.

² A shopping center is defined in the Cascade County Zoning Regulations on pg. 39 as, "More than one sale [sic] or service uses built on a single site which is planned, developed, owned, and managed as an operating unit." For more information, please see "§2 Definitions" of the Cascade County Zoning Regulations.

3. The applicant provides a minimum of ten (10) parking stalls plus one (1) stall per 100 square feet in excess of 1000 square feet of gross usable building area. Parking stalls shall have a minimum width of nine (9) feet in and minimum dept. of 18 feet.”
4. The applicant establishes reasonable business hours of operation that facilitate peace and quiet for adjacent property owners and install and maintain a substantial fence between the subject property and the adjacent owner, Ryan Byrd.

Bill Austin (00:42:21): asks to repeat the motion.

Charles Kuether (00:42:25): says that he modified condition four (4) and reads aloud the modified condition four (4). He says he has modified that condition based upon Mr. Byrd’s letter of complaint.

The Chair, Bill Austin, understands. The Vicechair states that there is some commotion amongst the public attendees.

Shirley Lynch McDonald (00:43:25): states that she knows the status of that specific fence. She says that the fence is an old barb wire fence. She says the fence is located near the highway and extends along Mr. Byrd’s easement and her property. She says the fence is declining from natural causes, such as from wildlife.

Charles Kuether (00:42:56): asks if she is implying that it is from natural wildlife.

Shirley Lynch McDonald (00:43:59): says that it is from natural wildlife, such as from deer. She says that there are signs posted on Mr. Byrd’s fence stating, “no trespassing” preventing people from touching the fence. She goes on to say that when she first moved to her property, they were told not to touch that fence, as it was not their fence. She says that they would also like the fence to be fixed.

Bill Austin (00:44:49): asks if Ms. McDonald agrees that they should put a fence up in that area.

Shirley Lynch McDonald (00:44:52): says that it would not make sense to put a fence around the subject property. Nevertheless, it would provide some security for the property. She says overall, she just wanted it be known that the damage to the fence is due to wildlife, not from humans.

Bill Austin (00:45:36): asks if it makes sense to the Board members.

Michele Levine (00:45:39): asks if Charles Keuther would still like to go through with modified motion.

Leonard Reed (00:45:42): says the fence belongs to Mr. Byrd, who is the complainer of the complaint letter. He says if Mr. Byrd would like to fix his fence, he may. He says it is not his neighbors’ responsibility to take care of his fence.

Charles Keuther (00:45:50): asks if it is true that the owner of the fence is indeed Mr. Byrd.

Leonard Reed (00:45:52): responds that was what he heard from Ms. McDonald.

Shirley Lynch McDonald (00:45:52): replies that she has been told that the fence does indeed belong to Mr. Byrd.

Michele Levine (00:45:54): asks Ms. McDonald if it does belong to the Byrd family.

Shirley Lynch McDonald (00:45:55): replies yes.

Rob Skawinski (00:45:57): ask if the fence is indeed a bit far from the subject property.

Shirly Lynch McDonald (00:45:59): replies yes. She says that there is an easement between the subject property and Mr. Byrd's fence.

Charles Kuether (00:46:07): withdraws the changes from condition four (4). He says the motion will be consistent now to what the staff set as Alternative 2 to approve.

Alternative 2 states: "Move the Board adopt the staff report and findings of fact and approve the Special Use Permit to allow a shopping center at the subject property subject to the following conditions:

- 1. The applicant obtains all required local, state, and federal permits and/or licenses. Specifically, the following:*
 - a. The applicant obtains approval from DEQ for the public water and sewer (PWS) system on-site with respect to the proposed land use.*
 - b. The applicant satisfies all minimum required alterations and approvals provided by the City-County Health Department.*
 - c. The applicant obtains any required electrical, plumbing, and/or building permits from the Department of Labor and Industry Building Codes Bureau.*
 - d. The applicant obtains the necessary licenses for serving alcoholic beverages.*
- 2. The applicant installs shielding for any outdoor area lighting to ensure that the lighting does not illuminate areas outside the subject property.*
- 3. The applicant provides a minimum of ten (10) parking stalls plus one (1) stall per 100 square feet in excess of 1000 square feet of gross usable building area. Parking stalls shall have a minimum width of nine (9) feet in and minimum dept. of 18 feet.*
- 4. The applicant establishes reasonable business hours of operation that facilitate peace and quiet for adjacent property owners seven days a week."*

Rob Skawinski seconds the motion for approval.
All in favor, motion carries 5-0.

B. SUP 013-2019, Light Manufacturing and Assembly – Forrest Croff

- 1. Staff Report by Sandor Hopkins**
- 2. Board Discussion & Action**

Board Discussion

Charles Kuether (01:09:33): asks concerning condition four (4) of the motion alternative two (2), if condition four (4) should include not violating the launch facility restrictive development buffer.

Sandor Hopkins (01:09:59): replies that they can add that statement to condition four (4) if the board wishes.

Charles Kuether (01:10:03): asks not regarding the structure itself, but as to equipment and/or material that will be used on site. He says that he is currently unaware of the extent of the restrictive development buffer's definition's involvement for such items. Nevertheless, he says it would not hurt to have that restriction.

Sandor Hopkins (01:10:22): responds by stating that it specifically applies to structures. He says that the applicant appears to be working mostly outdoors for his business.

Charles Kuether understands.

Michele Levine (01:10:45): asks how far this proposed operation's site is from the launch facility.

Charles Kuether (01:11:08): responds that there is a circle on one of the maps that shows the location of the proposed use site from the launch facility.

Sandor Hopkins (01:11:15): agrees and states that there is a GIS map stating that there are approximately twelve hundred feet (1,200 ft.).

Michele Levine (01:11:20): states that she accidentally missed viewing this map earlier. She then asks if it would be anything beyond a purple line on the map.

Sandor Hopkins (01:11:30): replies yes.

Vicechair Michele Levine understands.

Public Hearing opened at 10:14 AM

Bill Austin asked for proponents.

Bill Austin asked for opponents.

Public Hearing closed at 10:15 AM

Board Discussion and Decision

Michele Levine (01:12:55): motions to "[...] move the Board adopt the staff report and findings of fact, and **approve** the Special Use Permit to allow light manufacturing & assembly at the subject property described as Parcel 7 of Certificate of Survey 3352 in Section 14, Township 15 North, Range 07 East, Cascade County, MT subject to the following conditions:

1. The applicant obtains any other required county, state, or federal permits and comply with regulations associated with any other permits.
2. Operations and storage of materials are screened from general public view, either by natural foliage, or a privacy fence minimum six feet in height if natural growth is insufficient.
3. Applicant obtains updated approach permit from Montana Department of Transportation if required.
4. All cutting and storage is conducted a minimum 1,200 feet from the Alpha Six Launch Facility
5. Operational hours are limited to 7 AM to 5 PM, and no more than five days per week, in accordance with applicant's operational statement.
6. Any additional structures associated with this operation obtain a Location/Conformance permit."

Charles Kuether seconds the motion for approval.

All in favor, motion carries 5-0.

C. SUP 001-2017, Rockwell Scales, Alleged Violation

1. Board Discussion & Action

Board Discussion

Sandor Hopkins (01:14:33): asks if they would like to hear the old staff report on this Special Use Permit.

Bill Austin (01:11:35): replies that he finds it to be a good idea.

Michele Levine (01:14:39): asks if they must focus on the installation, visibility, fencing, inappropriate landscaping around the perimeter of the property.

Bill Austin (01:14:48): says that is the main argument presented today.

Charles Kuether (01:14:50): replies that he has the photos from the time that the violation was brought to their attention.

Michele Levine (01:14:57): says that they can just focus on visibility and landscaping.

Bill Austin (01:15:02): replies that Cascade County Chief Civil Attorney, Carey Ann Haight, recommended the Board to review the old staff report, and he agrees.

Vicechair Michele Levine understands. Then the Board and staff discuss with one another. Carey Ann Haight, Cascade County Chief Civil Attorney, leaves the room momentarily.

Charles Kuether (01:15:44): asks if they should read the entirety of the old staff report.

Carey Ann Haight (01:15:52): replies that they do not need to read the entire old staff report. The old staff report is presented to the Board so that can look at the report for reference as well as a tool to help them answer some questions.

The Board and staff understand. Then, they discuss with one another.

Michele Levine (01:16:09): says that they could start at condition number one (1) for the approved Special Use Permit.

Eileen Hyndman at 983 McIver Rd, Great Falls, MT. 59404 (01:16:20): says, "I would like to apologize for not being too alert. We were just advised of the meeting this morning with this issue. I have—see you have the pictures that I submitted the other night. And I have the same pictures here. On the date, I've written up comments on them as to what is now, what it looks, what it looks like now if you'd like to pass them around. These are the only ones I have. I also have a, a video that I took yesterday. They were working over there. The fence is still insufficient, and they extended the driveway to a good forty (40) feet, which in one picture you can still see straight back. That opening is in front of my neighbor, Mr. Napo's house. And I would to comment that their operation is four hundred (400) feet from our front doors. Well, maybe if it was a little further back, we wouldn't be so adamant about are—you and the noise. However, I would, I would also like to know why we weren't told of this meeting? There was, I believe it was from Planning. It was over there on the sixteenth at three fifteen [3:15 pm], they were coming out of the yard. I assume that they were there to inspect the fence, from the inside. We've never had anybody come over from to our houses and actually look at it, the operation. Okay. Our view and listen from our view, we've submitted complaints and have never heard any answer, not just for this one issue, but other issues that we've had to put up with for three and a half years (3 ½ yrs.)."

Bill Austin (01:19:31): asks, "Sandor was this notification of this was it published in the Tribune?"

Sandor Hopkins (01:19:37): asks, "We did not publish this in the Tribune, no. We just put it on the agenda based on our discussion from the last hearing."

Chairman Bill Austin and Vicechair Michele Levine understand.

Leonard Reed (01:19:49): asks, "Could I ask the lady a question?"

The Chair, Bill Austin, agrees.

Leonard Reed (01:19:51): asks, "What, what are you asking for, for them to complete this berm or a wall or something like that? It seems to me, I remember you saying something like that—".

Eileen Hyndman (01:20:00): says, "No, that's, that's according to our County Commissioners that they're supposed to have appropriate landscaping and that the dirt stockpiles that they have there. First, I heard of it, there is supposed to be contoured and planted with appropriate vegetation. You're just weeds and whatever you can see right over the top of them. And, and, the fencing is, is not really in a—or it's inappropriate as far as..."

Rob Skawinski (01:20:38): says, "I think what he's [Leonard Reed] asking is what is your solution? Cut to the chase. What are you looking to gain out of this? What's your resolution?"

Eileen Hyndman (01:20:48): says, "Well, the third (3rd), we're now actually the fence should be held up to the standards from which the SUP asked and told them to."

Rob Skawinski (01:21:03): says, "That's it?"

Eileen Hyndman (01:21:06): says, "And I would also like to add as far as the in the, Section 10.7 of Operations. Operations in connection with the Special Use Permits shall not be more objectionable to nearby properties by reason of noise, fumes, and vibrations—All of which we have experience—or flashing lights and would be the operation of any permitted use. The answer from the application information submitted, this business may be more objectionable to nearby properties for the above reasons. The applicant has stated a willingness to work with the Planning Division [Department] on an inappropriate landscaping plan or visibility fence to shield neighbors from any objectionable operation, noise, fumes, vibrations for flashing lights that would result from the operation of the business. This is not my answer."

Bill Austin (01:21:10): asks, "What you're saying is they're not doing that?"

Leonard Reed agrees.

Bill Austin (01:22:16): asks, "Is that what you're saying is that they're not doing this Section 10.7 Operations? That they haven't performed that?"

Eileen Hyndman (01:22:28): responds, "No, not from noise. We still experience noise. I still see there's a fence directly in front of my house, but you can see that the— when they are lifting up their big beams that they wash off and paint that's still above the fence. That's still—I still get the fumes from that, I have a picture of them holding a big beam up in front of their shop and, and a picture of mine, well within three hundred (300) feet of where they're washing this metal off. I'd went, I had gone to the County [City/County] Health Department. I've discussed with them about their painting operation, they told me that he was given the plans for a paint booth in his shop and, and, he expressed to her that his, product was too large to paint in the shop, so they had to paint it outside."

Leonard Reed (01:23:32): asks, "Is this something they're going to continue to do or was that a one-time paint job kind of thing?"

Eileen Hyndman (01:23:39): responds, "That's been going on for three years."

Leonard Reed (01:23:41): asks, "Okay, so that's one of their functions is painting these large beams?"

Eileen Hyndman (01:23:46): responds, "Yes."

Leonard Reed (01:23:48): asks, "And it looks like they're going to continue that?"

Eileen Hyndman (01:23:50): responds, "Yes. But this, this, this, this what we're talking about knowledge painting. I thought this was the issue, of, about the fence and like we, we were not allowed to have input here this morning of evidently because no one, no one advised us that this was going on even—they [the Rockwell family] were,³"

Rob Skawinski (01:24:19): says, "Well, it's not like this issue is brand new. You've been to three or four meetings previously. We're pretty well aware of all of your issues and complaints. I think what we're asking is to try to get a resolution. We need to know what you're proposing resolution is specifically, if it's shutting the business down—is that what you're looking for? To shutting it down completely?"

Eileen Hyndman (01:24:40): responds, "It's in violation of the SUP [Special Use Permit] fence. It was never right to be—".

Rob Skawinski (01:24:43): says, "But I'm asking you a direct question. Are you trying to shut the business down completely or are you trying to resolve three (3) or four (4) issues? What, what are you trying to gain here today?"

Leonard Reed (01:25:02): asks, "If they did what was asked about the berm; so that you didn't see it, and it would probably cut down on the noise, etc. [...] would that be enough? Be sufficient?"

Eileen Hyndman (01:25:23): responds, "No, it's not. It's not feasible. They've been for three and a half (3 ½) years now. They've been given that option to go by the rules and regulations. I've had planning staff prior to these, these guys— it was before they were there—out to my house even. And, and at that time it was while they were still building it and complaining about it, the old vehicle that they pulled up beside the shop and it's sitting there out in the open for the whole time. In fact, it was there before the building was. I complained about, if there was no bathroom facility and building up that whole thing, I complained about that. I showed the planning staff and it was never dealt with."

Bill Austin (01:26:11): states, "I would like you to address Rob's question. [...] Ask that question again Rob please."

Rob Skawinski (01:26:22): asks, "Well, we're, we're here. We're trying to—we've heard you at several, several meetings. You've been to, I don't know, half a dozen with the same issue. We've now got it on the agenda to try to get it resolved and we're asking you a direct question. What are you looking for, for your resolution? Can you answer me that question?"

Eileen Hyndman (01:26:41): responds, "Well, we, we've been through this from the get-go. From the very start."

Rob Skawinski (01:26:44): asks, "So you want them to shut down?"

Eileen Hyndman (01:26:45): responds, "We didn't want..."

Rob Skawinski (01:26:46): asks, "Is that what you want?"

Eileen Hyndman (01:26:48): responds, "I don't, I don't actually—you want the truth? I don't want them here at all."

³ Notifications were sent out to the alleged violators.

Rob Skawinski (01:26:51): asks, “So do you want the business— “.

Eileen Hyndman (01:26:52): responds, “That was prairie, that was open prairie. That’s prairie out there.”

Rob Skawinski (01:26:56): says, “Okay, but we’ve got a Special Use Permit in place with conditions that they have to abide by and all we can do is make sure that they’re abiding by those conditions— “.

Carey Ann Haight, Cascade County’s Chief Civil Attorney, asks Mr. Skawinski if she may interject. Mr. Skawinski agrees to her request.

Carey Ann Haight (01:27:06): asks, “So, we keep talking about this [Section] 10.7 Operations and it’s a balancing provision. ‘Operations in connections with the Special Use Permit shall not be more objectionable to nearby properties by reason of noise, fumes, vibrations, or flashing lights, than would be the operation of any permitted use.’⁴ So, what is permitted use in a location where they are operating?”

Sandor Hopkins (01:27:38): responds, “So some examples, we have commercial dairy on a parcel 20 acres or greater, these are permitted principal uses. So most Special Use Permits require [allow] riding and roping arena {excluding commercial rodeo grounds, commercial stables, animal therapeutic facilities, providing such use shall be at least two hundred (200) feet from any lot in any other District. Participants must number less than twenty-five (25) total for all events or a special use permit is required. Parcel must be greater than 20 acres}, community center, public safety building, agricultural use of the land, golf driving range, a campground or RV park, a bed and breakfast, a tourist home, a tower/ studio facility {related to radio, television broadcasting stations, a power plant, commercial wind farm. A power plant or commercial wind farm is not to exceed one-megawatt.}, a commercial building for raising/breeding/boarding small domestic animals {that such building, including dog runs, shall be at least one hundred (100) feet from all property lines.}, a community garden, and onsite construction facility. That’s pretty comprehensive.”⁵

Bill Austin (01:28:43): asks, “Those are permitted uses that don’t need these [Special Use Permits]?”

Sandor Hopkins (01:28:46): replies, “That is correct.”

Vicechair Michele Levine agrees.

Michele Levine (01:28:48): asks, “And so, all of those [uses] would have impacts. Then we have mitigation measures to mitigate those impacts, and one of those [mitigation measures] is fencing and landscaping. It appears from the photo that that hasn’t occurred. Sandor, from your perspective, have you inspected that and agreed that that fencing, and landscaping is not there?”

Sandor Hopkins (01:29:07): says, “So the site plan that was provided is the fencing that was initially put in if you look at that. Then a berm was installed, which is correct. And as my visit

⁴ For more information please in the Zoning Regulations “§10.7 Operations” or view it at http://www.cascadecountymt.gov/df/departments/public-works/planning/2018_FINAL_CascadeCountyZoningRegs.pdf?v=1542840838 .

⁵ For more information please see Zoning Regulations “§7.2 Agricultural District” or view it at http://www.cascadecountymt.gov/df/departments/public-works/planning/2018_FINAL_CascadeCountyZoningRegs.pdf?v=1542840838 .

on Friday, last Friday, he had posts in the ground and was beginning to put up the final last piece of fence on the Eastern portion of the property and then were beginning on the other Eastern properties.”

Michele Levine (01:29:32): asks, “What about in the area where the photos have been taken?”

Sandor Hopkins, Interim Planning Director, and the Vicechair look at the latest photos taken by the Planning Department.

Sandor Hopkins (01:29:43): says, “So that area where the photos are taken, I believe I still have that. There is now as of Friday, there were post in the ground and there was a framework for the fence going up. However, the fence was not completed as of the last time I was there.”

Michele Levine (01:30:00): asks, “So, under page three (3) of this report, it said that a violation of the permit would be handled as any other, any other violations under section 13 of the zoning regulations. Under [...] section 13, once there's knowledge of a violation and notice to comply within 30 days would be issued, was that notice ever sent?”

Sandor Hopkins (01:30:25): says, “We did, yes. There was a notice that was sent in 2017 not by myself, by another Planner discussing that. And then earlier this year, Ian Payton—I'm sure you remember him—had reached out to the property owner about installing the fence. He had given us a timeline of having it done by August or September.”

Michele Levine (01:30:45): asks, “Okay, and so then compliance if not obtained within the additional thirty (30) days for a total of sixty (60) days since the date of notice, then a violation shall be punishable of a fine. Was a fine ever issued?”

Sandor Hopkins (01:30:59): says, “No ma'am.”

Michele Levine (01:31:01): says, “But it's been more than thirty (30) days since that notice was sent, so it seems like that violation would have been established?”

Leonard Reed (01:31:14): says, “In this picture here shows a looks like a pretty good size fence made out of railroad ties—”.

Eileen Hyndman (01:31:21): says, “Slab wood.”

Leonard Reed (01:31:24): asks, “Is that what is? Slabs? Slabs?”

Eileen Hyndman (01:31:25): says, “Yes.”

Sandor Hopkins (01:31:26): says, “And that's what the remainder of the fence is going to look like.”

Leonard Reed (01:31:27): says, “Okay. That's what I wanted to ask. In these pictures, are these basically taken from your [Ms. Hyndman's] place over to theirs [Rockwell Scales]?”

Eileen Hyndman (01:31:35): says, “That one is. Most of them are from across, from his property.”

Leonard Reed (01:31:40): says, “Okay.”

Eileen Hyndman (01:31:41): says, “My, my video might have is taken from the front porch. It shows their building and what fence they have.”

Leonard Reed (01:31:52): asks, "But that fence if it were continued over. And then where would the earthen berm be?"

Eileen Hyndman (01:32:00): says, "It's in a picture there. It's off on left-hand side."

Leonard Reed (01:32:06): says, "Oh, this is the berm here?"

Eileen Hyndman (01:32:07): says, "Yeah."

Leonard Reed (01:32:08): says, "Okay. Is that high enough to a—was there an original agreement as to the height of the berm and the character of it?"

Eileen Hyndman (01:32:19): says, "No."

Michele Levine (01:32:21): says, "It sounds to me that maybe we just need them to meet the original requirements of fencing and landscaping of the property that hasn't occurred and its ongoing and trying to, that's good. But this was approved in February of 2017 has been over two (2) years or the violation."

Carey Ann Haight (01:32:38): says, "We do have the applicant here I believe."

The Interim Planning Director agrees with the Chief Civil Attorney that the applicant is here. The Vicechair states that she would like to speak to the applicant.

Eileen Hyndman (01:32:44): says, "I would also like to address the fact that you—he [Mr. Rockwell] has extended, extended over his driveway. So, it's approximately forty (40) feet and I don't think there's any plans of a gate, but it looks the same as it does in that one picture from the front, that's directly across from that driveway, which they have extended to forty (40) plus feet."

Michele Levine (01:33:09): says, "Is your home directly across from your driveway?"

Eileen Hyndman (01:33:12): says, "No, it is not."

Michele Levine (01:33:14): says, "Alright."

Carey Ann Haight (01:33:14): asks, "Is there a requirement within the conditions that they have to have a gate on the driveway?"

Michele Levine (01:33:21): says, "No."

Bill Austin (01:33:21): says, "No."

Michele Levine (01:33:22): says, "Just visibility and fencing and appropriate landscaping around the perimeter of the property. To conceal work equipment and material."

Carey Ann Haight (01:33:28): says, "Okay."

Sandor Hopkins (01:33:29): says, "The expanded approach was approved by [Cascade County's] Road and Bridge [Department]."

Michele Levine (01:33:34): says, "Let's hear from the app[licant]."

The applicant comes to the podium.

Nick Rockwell at 4004 Huckleberry Dr. Great Falls, MT 59404-4609 (01:33:57): says that he is the owner of Rockwell Scales Inc. He also says his only employee, Scott, is here today as well

and can also answer any questions that the Board or staff may have.⁶ He goes on to say that, "During those hearings for the SUP [Special Use Permit], they wanted me to submit a site plan, which I submitted and showed them exactly what I did do. And during those hearings, there wasn't or any discussion of anything beyond that. And when it was written up, apparently, they included more than that. So, I was...in the mindset that I was doing what I was supposed to do; and I didn't hear anything until about a year later. They called me and they asked me when I would complete the rest of the fence, and I told them that I had to my knowledge completed the fence. And so, then they started a talking about putting up additional fences, I think at that point I hadn't had the berm up already [be]cause I just moved the soil around to work with gravel. And then also, so they've called me last year. They call me two (2) or three (3) times. I am not sure about the third time. And every time they called, I just mentioned that you know, I followed this site plan that I submitted then and was approved, so it was kind of was just left hanging up in the air. And I believe that's probably why I was fine with the proper issue, but I was just kind of (given the cost of the fence), kind of left it, wait until I knew if I—it was something that they were going to force me to do or not. So, at any rate, I know that these hearings are recorded now. I don't know if they were back then, but maybe you can look it up. If it was recorded and see that they never really talked about additional fencing, you know, on the site plans. But at any rate, this—earlier this summer, I was called again, kind of questioned about it and I was told that if, if I would just get up the additional fencing, that would be the end of it. So, I have an open mind, in order to put the rest on. So they said, when you get it done, I said, probably by the end of September. Then, they said they will try to do it early on, but I told them that it would be almost impossible this year with how busy I am in the spring and so...But at any rate, currently, I have finished the fencing along the roadside and going back to the berm and there's pictures in there and I, I believe at this point I'm compliant with the visibility. The pictures I have in there were taken yesterday from both angles. So, the back of the shop and then facing eastward and the front of the shop facing westward, that's you from the road that berm, by the way, is (where it sits now) is probably about, ten (10) to twelve (12) feet tall. The fence is eight (8) feet tall. And as you can see from that angle, at any rate, there's not a whole lot to do anymore. But beyond that, I also ordered (there's invoice in there [the stack of photos and documents from Mr. Rockwell]) complete an additional three hundred (300) feet cause I wanted to extend the original fence a little bit because I've had a couple of things [inaudible] as far as the metal and the rest of it just go along in the back of the berm. So, there's going to be fencing almost around entire working area. So at that point, they're pretty much gonna have to go out of their way to find the reasons they'll have to get binoculars if they want to do that, to find out what I'm doing. That's fine, but as far as the entryway goes, I do have, I did get approval for that. And that is not directly across from the complaint-er [sic] that person's house. That edge of that road, that entryway, pretty much goes to the other neighbor who doesn't have any issue with it. So... and they are looking in—I mean, they probably wouldn't have so many complaints if they stop looking, basically."

Bill Austin (01:38:07): says, "Right."

Nick Rockwell (01:38:08): says, "Anyway, I completed that portion of the fence. It's beyond what I agreed to with the site plan laid out. I just—I don't want it to go over some of the repercussions. If my permit were to be pulled, it would directly affect my family and my

⁶ Unfortunately, there were technical difficulties within the recording. As a result, the audio recording is slightly inaudible to understand in certain areas and the audio recording was cut from 10:36:40 AM to 10:36:43 AM.

parents and my employee. I am the primary breadwinner for my family, and I have three (3) kids and a wife—so that's five (5) people right there that would be directly affected. My parents basically collected a quarter of their retirement from me; and then my employee, who I pay better than his previous job which was [inaudible]. I've spent hundreds of thousands of dollars into Pacific [Steel & Recycle] that affects jobs, homeowners, and expenses. I've spent hundreds and thousands of dollars in Vasenol and Sherwin Williams [inaudible]. And I've spent hundreds and thousands of dollars in local vendors and where we pump our local gas—I mean the [inaudible] gas stations aren't local, but they help provide local jobs [inaudible]. I do bring in revenue from out of state [inaudible] from twenty-five (25) other states and three (3) countries [inaudible]." He continues to speak about how his business affects our community, his family, his neighbor, and our local economy. He says that he is Montana's only industrial-scale manufacturer and one of the twenty (20) or so industrial-scale makers in the United States of America.

He ends by saying, "Beyond that, I will try to keep this brief cause I know you guys probably hear it all the time, and it's probably the worst part of the job. But I have to its worst part of the job, but I would have to stand up for myself as far as, the harassment that I have been through, [inaudible]. Furthermore, I mean it hadn't been three and a half years, I got the Special Use Permit too, [inaudible]. At any rate, my complaints are that their original complaint was that I blocked their view; and then, I built the building and just spiraled from there. It's just as she has stated herself, as she stated herself that they don't want them there, and that's why they complain about everything that they can find. And that's why a stated goal was to drive me off the property.

They have called my wife who is Chinese, a racial slur. I am not going to say what it [(that insult)] is right now. They have filed false report against me, they have trespass on my property and put, put things under my fence to try and make it look [inaudible] underneath the burrow ditch. I've got pictures I've submitted for it. I've, they are trying to set me up. They are yelled at me from the road numerous times. I've filed reports. I've called the sheriff on them twice (2x) for doing so, but there has been more than just those two (2) times. I've had things stolen off my property. I don't know if that's them or not, but it sure wouldn't surprise me. They complain about everybody around them. They complained about the people who stood up for me at the last hearings They complain about the other company that's a half a mile down the road from them. So, it was laughable when she says if I put myself further back, she'd be okay with it because she's been complaining about the people half a mile down the road. Everything that they can find, they complain about. It's what they do, and my question is what else are they attempt at this point?

So, I can answer some of the things that were brought up. As far as getting that warning in the mail, I don't recall ever getting that. It could be because we moved around that time. So, maybe I didn't get—I don't recall ever getting anything, [be]cause I would've been a little bit more concerned about it if that were the case. To explain the entryway, their complaint or the original complaint was that I obstructed their view. I don't know why they would want me to continue putting up more and more fence so that I obstruct their view? First, she'd complain that I have things up in the air. Occasionally, I do. I lift things into the air. I guess she wants me to build a fifty-foot (50 ft.) tall fence around the entire premise. Paint booth, I've got. They cut their own wrist on that one. I was going to do a paint booth, and then when they came out to inspect everything that I was doing, I found out that I wasn't doing anything wrong. And then they, the bay—building inspector talked to me and all the requirements that

I needed to do make it. I was actually in the process of building a paint booth (a place of my own) and they basically meet all the requirements within—or possibly more than just buying one. So, and I'm not able to buy one at this point. So for now, I'm just still painting outside. I do want to put it inside, because I can get better paint jobs, by painting inside. But that is just a large cost, that I'm going to have to incur.

So, at this point, I'm saving for it, but it's also gonna require another building which they're going to complain about that too. They complained about that I had an old vehicle on the property. I still have old vehicles on my property. I'm an old car guy. I buy old cars. I fix them. You know I actually had them for a while. One of the new fences on the remainder of the fence that I plan to put up, I am planning to put in a location that you really shouldn't be able to see it, unless they really want to. But beyond that, they have old cars on their property, when, I first moved there. They've only got rid of them. So, they can complain about me. An old abandon trailer house that was falling apart and I bought the property right across from it. When the Hutterites bought that property, which they complained about. The Hutterites were just harvesting their grain. The Hutterites got rid of that trailer. So, I don't know. Perhaps, a power plant on the property would be a better use of the property. I guess maybe that one wouldn't be so much different there. I really don't make that much money to be totally honest. There is noise made. I use heavy equipment, but they're telehandlers⁷ and they have a diesel engine. It's about the same as a Dodge pickup, and you don't have the all the mufflers and stuff it's slightly louder than a Dodge pickup. I have a 98 Motor, which we use on occasion, with the very heavy scales that we build, but they're gonna use that scale about two times this year on that; and beyond that, I used it on yesterday to move some gravel, not really much so...

Now a lot of times I think during, during the winter we hardly run anything. We're—it's our slow season. So, I mean, we're working in the shop most the time. So immediate about five (5) or six (6) months, there is hardly anyone. [Inaudible] during the summer, its... you know we are not running equipment constantly or endlessly. It's to move a few around, and then we turn it off. So, it's not like it's sitting there idly. [Inaudible] I guess that's about all I have."

Bill Austin (01:45:45): asks, "So the way I'm understanding and looking through all the material, you feel like you've have met what was asked of you and you're continuing on that fence, is that right?"

Nick Rockwell (01:45:54): says, "I believe I've made it to this point, given the visibility that you can see from the road in those pictures. And then I do part of that about another roughly [inaudible] foot pass the berm on that side, and maybe another fifty (50) feet or so on the other side."

The Chair asks for further questions or comments by the Board.

Michele Levine (01:46:17): asks, "What are your hours of operation?"

Nick Rockwell (01:46:19): says, "Typically, it is eight [(8:00 am)] to five [(5:00 pm)], but a lot of times we don't work till five (5) or I mean late. And when we're busy and we do work late sometimes, and we do I mean on weekends like this last weekend I came in, but that's to finish the fence so.... I mean it's not uncommon, but we do work late sometimes. They called the sheriff on me for unloading vehicles on the roadway. [Inaudible], I told sheriff [that] the

⁷ A telehandler is a construction vehicle made to lift items. A telehandler often carries characteristics of both a crane and a forklift.

trucker I don't blame him because he [the trucker] would have never gotten out of my driveway. If they would have loaded in the driveway then.... I had a noise complaint filed, but that's [be]cause I offered my employee a bonus if he could get it done on time, and I was out of town. But according to the highway sheriff that I spoke with said that there's no violation there because it says that noise restrictions are from seven (7) in the morning to ten o'clock at night or err between ten o'clock at night to seven (7) in the morning. I believe that is what it's from. And my employee left at about nine o'clock. But again, that was within the shop and there was probably some noisy [inaudible] equipment. I just think that...."

Carey Ann Haight (01:47:46): asks if Sandor Hopkins has had followed up conversations with Sandy Johnson of City/County Health Departments, Environmental Health Division, and the Department of Environmental Quality (DEQ).

Sandor Hopkins (01:47:57): says yes.

Carey Ann Haight (01:48:08): asks if there have been some conversations concerning painting outside near the well water.

Sandor Hopkins (01:48:12): says, "I don't believe I spoken to Sandy specifically about the quality of water in relation to the spring. However, I know that OSHA has visited the site, I know that City/County Health Department has visited the site, and neither MDT has found it to be a violation or an issue with what is being conducted by the property owners, by either one of these guys."

Phil Nappo at 979 McIver Rd. Great Falls, MT 59404 asks if he may speak during Board discussion. The Chair grants his request.

Phil Nappo (01:48:40): says, "I'm directly across the street from that, this. I'm here to talk little about the fence. There isn't a fence adequate enough to stop the noise...and the fumes...and the smell. But to get down to brass tacks, some of the things they build is inside on the off-road. A lot of it is foam. But anyhow, I've been out there since 1978, and when this first started, I came in and talked to Bill Salina (that was a County Commissioner at that time), and he flat told me there ain't nothing you can do. They already broke ground out there and just started working. And I tried to put the kibosh to this until everything was done properly. I'd got lied to by the County Commissioners. Everything wasn't ope-be-dopey. And I got lied to by the guy who was on the Planning Board that retired. He lied to me. He said everything is fine. Well, everything wasn't fine. After they already broke ground, started getting that building put up. Then, they had hearing about any complaints—the pros and cons about this. Well, this should of happened before the groundbreaking got started. So, all of this could've been headed off in the past. We've been told by the County—I've been told by the County Commissioners, two (2) of them, that none of this was handled correctly. We were also told that a paint booth should be required by the County Commissioners. He complained about him washing his steel wall. Well, it's gonna take a little time for the weight product to get into the wells. How much time, I don't know, but eventually is gonna happen. If he goes to expand this business, what's going to happen out there with the residents are out there? The one resident that keeps, sticks up for him. They came to me when they were having problems out there and said, will you go to the County Commissioner meetings and the Zoning Board when they were having problems with something else out there, and I went with it. Now all of a sudden, there some, something going on between the neighbor, that neighbor, and Rockwell that could become friend that's great. But stick up for your neighbors like your neighbors stick up for you. Don't be going to the extreme.

I can't even open the windows in my house [be]cause of the stinking fumes from the painting, from outside, and when the winds right you can smell it. You can smell the stinking diesel all the time. Listen to the diesel go all the time. Yeah, he's right. He's got that big cat loader over there. He uses it a lot more than what he sat there and said. Because that damn thing is terrible noise. Everybody knows that cat loaders make a lot of noise. This is a resident, residential area. It was residential before this. Why wasn't this looked into properly before this guy spent all his money and made him go into here, one of the places in the county, when your industrial parks? There wouldn't have been none of these problems. The road can't handle the heavy truck he's putting out. As far just little scales, like it was supposed to be in the beginning. He sat right here and told you all this work was gonna be done inside the building. I'm spending all this money on insulation. I'm buying a special door so there ain't gonna be a noise problem. Out when you do the work outside, they do some of the welding inside, but yeah here the beating on this steel, the grinding, the moving of the steel all the time.

Why is that our problem? Like I said, I've been out here a long damn time. Where are our rights? I keep asking this question and every time it gets changed you—there's got to be something done. What do I want to see done? I'm like Eileen. I want this to go away, put it where it needs to be, where the road can handle it. We had a range of people living there and safety. Where should we have to breathe these damn diesel fume and this paint fumes? When they're out their painting, they're in these. Why I seen it once only, these white thing with a respirator on and all that. But when the wind blowing, who knows where it's gonna go and I've been outside cutting my grass and I could smell them stinking, them stinking paint fumes. His front of his equipment, look at it, its all covered with over-spray because of the way the wind's carrying it the ground gets covered in paint. Why should we have to breathe this stuff? We didn't ask for this."

Bill Austin (01:54:09): says, "I think he said he was in the process of collecting up money to build a paint booth. Well, I have a question for you."

Bill Austin (01:54:17): says, "Go ahead."

Bill Austin (01:45:18): asks, "Have you ever been over near the [oil] refinery?"

Phil Nappo (01:45:21): says, "Yeah."

Bill Austin (01:45:22): asks, "Do you notice an odor over in that area?"

Phil Nappo (01:54:24): says yes.

Bill Austin (01:54:27): asks, "That affects how many people?"

Phil Nappo (01:54:28): says, "Quite a few. What—".

Bill Austin (01:54:31): says, "Just I mean, business going up—".

Phil Nappo (01:54:32): says, "What does that, that's almost like what one has to do with the other? You're talking about—there are hardly any residents. I know any residents around the damn refinery. Well, you get up in River View. I'm directly across the street. When you can't even open your windows to get a breath of fresh air because of the smells, damn noise. All that work is what's been done inside the building and it ain't. We work there. The road is getting tore up. Well, what is it doing to our help? What is it doing eventually to our wells? This stuff has got, it's got a stop. I think..."

Bill Austin (01:55:14): asks, “And your solution is for him to plea and close everything down at that, correct?”

Phil Nappo (01:55:21): says, “Yes.”

Bill Austin (01:55:22): asks, “That’s what you would like?”

Phil Nappo (01:55:24): says, “Yeah. I don’t pull no punches.⁸ You ask me a question. I’m—yes.”

Bill Austin (01:55:27): says, “Okay.”

Phil Nappo (01:55:28): says, “I didn’t move up there to get aggravated again because the County didn’t do their job right. When that, when he broke ground out there and I came into put a work stop, which would have been put on. So, he didn’t put out all this money and do allow all this was done and done right. But where is it that the people have been living out there all these years? Where is it their problem? I’ve been told if you don’t like it get a lawyer. Me being an attack? I’ve got to go get a lawyer to sue the county? Because they messed up? Where the hell is that coming from? You’d think, you folks think that’s right there? I have to go down and mortgage my house? To get this revised? No.”

Bill Austin (01:56:19): says, “I don’t, I don’t think there is anything that we can do here today to calm you down. So, I’m going to ask you to please—we’ve heard your complaint. We know what it is and we’ll go from there, okay?”

Phil Nappo (01:56:36): says, “Okay.”

Bill Austin (01:56:36): thanks Mr. Nappo for his input.

Nick Rockwell (01:56:51): returns to the podium. He says that the pressure washing was a temporary solution, that they were trying last year, to keep the area cleaner for painting. He said that they stopped pressure washing because it was not working as well for them as they had hoped. He goes on to say that they wear paint suits to not get paint all over their skin and clothing. He says that they do not wear a respiratory mask when painting for the paint that they are working with is nontoxic paint. Furthermore, they try their hardest to not paint outside when there is windy weather and they work mostly inside their shop. However, they do move some equipment inside and outside of their shop along with the scales that they are making. Rarely, they will weld outdoors depending on if they are making a certain type of scale. He says once they have the landscaping done there should not be as much of an odor coming from their business (under most circumstances), from the motor that they use to move items around. There may be some odor if they are making a particularly large scale or are loading the scales in the truck. Anyhow, he hopes to be finished with their landscaping plans this Fall.

Bill Austin (01:59:05): asks for a specific timeline for when he anticipates being finished.

Nick Rockwell (01:59:15): says by the end of October if there is not an early frost.

Bill Austin (02:00:05): asks by the end of October is his goal.

Nick Rockwell (02:00:07): says that he is hoping to have the fence finished by the end of October. As for the gravel, he says that it depends on when the gravel company whom he has

⁸ To *pull no punches* is an idiom meaning to act without restraint or to speak without softening one's words or actions. For further information please see <https://idioms.thefreedictionary.com/pull+no+punches>

hired to lay the gravel down finishes their work. He goes on to say that he has invited some people here today to speak on his behalf.

Eileen Hyndman asks if she may speak during Board Discussion. The Chair denies her request. Vicechair Michelle Levine has left the meeting. There is now a quorum of four Board members present.

Public Hearing opened at 11:03 AM

Craig Warren at 2900 Ana Dr. Great Falls, MT 59404 (02:01:32): says that he is the manager of Great Falls Pacific Steel. He says that Rockwell Scales is one of their top customers. He says Mr. Rockwell is trying hard to grow and run his own business, which is extremely difficult. He says that this situation is unfortunate, and he hopes that his business can help him get through this difficult time as they wish to continue to work with Mr. Rockwell in the future. He says that Mr. Rockwell's steel purchases to his company help support his two hundred (200) employees in Cascade County.

Dylan Ruiz at 24 Eden Rd, Great Falls, MT 59405 (02:01:32): says that he is Mr. Rockwell, one employee. He says that the paint that they use outside is not harmful. He says that he has gotten some of the paint in his eyes and had no problem. He says that ninety percent (90%) of the welding that they do is inside. He says occasionally there is some noise when they are assembling the scales. He says that he is concerned if this business must cease, for he does not know what he will do in his life without their support.

Bill Austin (02:04:08): asks how big are the scales that they build.

Dylan Ruiz (02:04:12): replies that they build separate modules for the scales, which are about three-feet (3') long. When the scales are assembled, they can reach to heights up of twenty-feet (20').

Rob Skawinski (02:04:25): says that the scales are big truck size scales.

The Chair understands.

Rob Skawinski (02:04:30): asks how often they paint a scale. How many days a week on average?

Dylan Ruiz (02:04:12): replies that they paint a scale once or twice a month.

Charles Kuether (02:04:42): asks if this paint that they use to paint the scales is water-based.

Dylan Ruiz (02:04:44): replies that it is an oil-based paint. He goes on to say that working this job he has received excellent pay.

Leonard Reed (02:05:08): says that he understands that it may be nicer to paint outside. However, he is concerned that the runoff may enter the wells. He finds that it may be beneficial if they have an expanded paint booth to avoid such issues.

Dylan Ruiz (02:05:51): agrees. He says that he and Mr. Rockwell have been discussing that possibility.

Marian Prue at 973 McIver Rd, Great Falls, MT 59404 (02:06:23): says that she lives right across the street from the business. She says that she does not have any problems with Mr. Rockwell's business. She says that she has no complaints about the noise or any other of the stated issues. She goes on to discuss the wells, she finds that most people in that area have cisterns. She says it is unlikely for the water to be affected by Mr. Rockwell's business as the cisterns are eight (8) feet

into the ground below. She says that her husband is not here today, however, he also agrees with her opinion about the situation at hand.

Ann Rockwell at 4004 Huckleberry Dr. Great Falls, MT 59404-4609 (02:07:37): says that she is Mr. Rockwell's wife and that she was discharged from the hospital earlier. She says her husband owns the small and struggling business, Rockwell Scales, and it is there the main source of income. She says that their current focus is finishing building the fence and that she apologizes that they are unable to work any faster as they cannot afford to hire a fencing company to do the work nor build it all by themselves at once. She also says that she is here to state some facts and that there seems to be a misunderstanding. She has prepared some documentation for the meeting and she passes out that documentation, some of the documentation includes sale invoices for the fencing materials, a forwarded email of police reports, as well as Facebook containing statements made by Eileen Hyndman.

The statements posted on Facebook by Eileen Hyndman are posted on open public platform groups about her husband's business and some specific county officials. She details how the statements are crude, slanderous, and disrespectful not only to her family's business but to several specific county officials as well. She says that it is misleading and that this method that Mrs. Hyndman has taken is not an appropriate manner to discuss her issues with her husband's business or county officials. She says that the proper method of dealing with a problem is by talking directly to that person and working out the issues together, which she says is what she and her husband do when they are having problems with the county. She does not like the idea, nor does she talk negatively about people online. She says despite her circumstances today or in life, she chooses to not dwell in negativism as there is always some negative aspect/thing in life. She then goes on to say that as an immigrant she understands the importance of freedom of speech and enjoys the freedom of speech. However, she does not enjoy the freedom to bully one another. She says that she hopes that this type of bullying/harassment will stop as it hurts small struggling businesses like her family's business.

She says that the forwarded email contains police reports they have made concerning Phil Nappo. She says that one can read the highlights of the report on the documentation. Overall, she says that Mr. Nappo and Mrs. Hyndman are acting like bullies. She says that they are being extremely rude and disrespectful to others. She says that Mr. Nappo and Mrs. Hyndman harass the Prue family as well. She says none of them call the police as much as they should as they do not have the time, nor do they wish to waste the police's time or taxpayers' money. She does report to the Board that she is frustrated by Mr. Nappo and Mrs. Hyndman for they have been gossiping about others during the meeting. She also reports on Mr. Nappo's discourteous remarks that he has made when a proponent of Rockwell Scales speaks or goes to and from the podium. She says that she is not upset; she says that she is frustrated as she wishes that all the harassment would stop. She says enough is enough. She would find it ridiculous for her family's business gets shut down due to this kind of nonsense. She says that these Mr. Nappo and Mrs. Hyndman complain about everything and everyone around themselves. She says that their negativity is/does not allow that area to develop. She says that they did not expect to run into these types of problems with neighbors when they first moved in as they are hospitable people, have a desire to have healthy relationships with all their neighbors, and do not desire to harm the environment in any way. She says their door is always open and has made that statement clear. She has told them in the past and she tells them presently that if they have any problems with her or family to come and talk to her.

Jonathan Borland at 4227 7th Ave. N. Great Falls, MT 59405 (02:16:38): says that he has known Mr. Rockwell for five (5) years and is Mr. Rockwell's paint supplier. He discusses how the chair mentioned the Calumet Refinery. He says that he visits the Calumet Refinery every day. He says that he wears meters to protect himself from hazardous materials, air pollutants, and so forth... He says the meters do not detect anything harmful at Mr. Rockwell's operation. He then says that "I have known him to be a man of integrity, hard work. You're obviously willing to do whatever he needs to do to remedy this situation. From sitting here listening to this, it seems to me as a taxpayer that this is a personal issue that if Mr. Rockwell's compliant is willing to do whatever the board recommend, including Sandor's opinions or recommendations. We all know that the planning process in the County can be slow. It can be. We need, especially with having some planners left such as Alex Dachs or Brian, himself. It takes communication, as I'm sure you would all agree, and I would dare to say that is this a little excessive? I'm sure you all have far better things to do. I would encourage you to understand that it is a process and he's willing to do what it needs to do to be a taxpayer, a businessman. And I have not known him to not be a man of his word and I would hope that you all would see that. But as far as some of the claims, Sandor, you yourself said that OSHA had been out there?"

Sandor Hopkins (02:18:09): say yes.

Jonathan Borland (02:18:10): says, "We're holding Calumet Refinery and other businesses, ADF to the same OSHA hazmat standards that we all must comply within what this [lot] is zoned for. He's fine with it. So, isn't this a moot point? Again, I'm not here to fluff anyone's ego or extend myself, but you're asking the community to get involved, to speak on someone's behalf unless there's a clear direct violation. If he's doing everything that the SUP requires and given there's extenuating circumstances why certain things are taken over, really what's the point? He's doing everything that he needs to do. That would be no different if I bought property next to you, or you, and wanted to put a car show. So again, I would hope that this can be resolved in a quick manner and allow Mr. Rockwell to get back to business so you can continue to support the tax basis and continue to support the community that he has so obviously invested in the past five (5) years. Thank you very much."

Eileen Hyndman (02:19:27): says that she would like to respond to some of the complaints. She says that it is true that there are cisterns out there. However, she says that there are some ground drilled wells. She says that her well is registered in Lewistown and it is sixty feet (60 ft.). She says that it is her only irrigation source for the yard. She then says in response to Mr. Ruiz that every scale is painted, and they are not being painted once a month. She says that she has photo documentation of the painted scales. She says that Mr. Rockwell can only make agricultural scales, which can be put on to a flatbed trailer. However, he is not making agricultural scales. She says that he is making massive scales that that are going out on semi-trucks on wide loads. She says that the Rockwell family does not reside at the shop. She says that she lives there twenty-four seven (24/7). She says that there is no rest or stop, even on holidays. She says that she cannot even open her window. She says, "My house is a direct front to a, a slab wood fence and this and this building and, and all of the noise." She says, "They're doing business, that's fine, but they never should have been there, allowed there." She says that they had the building up before they had it changed to Agricultural. She says, "They jumped on with the Hutterites because it was our RR5 [Rural Residential District]. We're RR-5. There was never any mentioned in the, in the planning reports in the, in any of any of the thing that was mentioned by planning staff, there was never anything mentioned about the residents across the road. That's, that's—he should have been over in an industrial park. It never, never should have been allowed out

there on the prairie, which is one of those pictures. You can see the State and land in the back, the Buffalo Jump. That's what I used to look at. That's what I used to look at."

Public Hearing closed at 11:25 AM

Board Discussion and Decision

Bill Austin (02:23:32): says that the building is there, and the Board cannot change nor can anyone change what has already happened. What they can do today is to try to solve the current problem. He says from what he has heard and has witnessed from Mrs. Hyndman today is that he is uncertain that if any solution that they can produce for Mr. Rockwell to do would satisfy Mrs. Hyndman unless Mr. Rockwell shuts down his business. Unfortunately, he says that there is not much more that they can cover here.

Carey Haight (02:24:15): recommends the Board to get some assurance that the landscaping will be completed by the applicant by asking the Planning staff to follow up with the applicant.

Bill Austin (02:24:29): says that Mr. Rockwell states that he will be finished by the end of October.

Nick Rockwell (02:24:36): says yes.

Bill Austin (02:24:38): says that he would like to make it a requirement to have the landscaping features such as having the fence completed by the end of October.

Eileen Hyndman (02:24:43): says that she has a doctor's note stating that she has respiratory issues.

Bill Austin (02:25:08): says that one of the gentlemen here today states that their air quality meters do not read any hazardous materials/particles in the air at Mr. Rockwell's business.

Eileen Hyndman (02:25:22): disagrees. She says that it would depend on where you are standing as they are dealing with the prairie. She says that she can hear her neighbors talking and she is a half a mile away from her neighbors.

Bill Austin (02:25:42): asks if she complains about her other neighbors as well.

Eileen Hyndman (02:25:44): says, "No, because I can't hear what they are saying; they're probably not talking about me."

Bill Austin (02:25:49): says that we should be towards the end of the meeting soon.

Charles Kuether (02:25:57): makes a motion to make the end of October a firm date to have all the work completed by, and if it is not finished by the set deadline then a fine will be issued. The applicant will be obligated to maintain contact with the Planning staff.

Nick Rockwell (02:26:55): asks what exact landscaping requirements need to be fulfilled by the deadline.

Bill Austin (02:26:57): replies it is regarding the gravel and the fence.

Nick Rockwell (02:27:00): asks what will happen if the Planning staff does not get back to him.

Charles Kuether (02:27:02): replies that he is obligated to stay connected with them as well.

Nick Rockwell (02:27:33): asks if he has exactly thirty (30) days then or he gets fined.

Charles Kuether (02:27:42): says yes.

Carey Ann Haight (02:27:43): says that the rules are that if they do not comply within the timeline. The next step is to issue a notice which starts the violation process.

Rob Skawinski (02:28:25): says that he believes Mr. Rockwell and Ruiz's statement that they only paint their scales once a month as he is familiar with the process. He says painting is typically the last step and that it is a long time to build one scale. He asks Mr. Rockwell how long it would take for a scale to be completed if he ordered scale from their business today.

Nick Rockwell (02:29:03): says that it would take six to eight (6-8) weeks.

Rob Skawinski (02:29:05): says at this period for painting, their activity can be classified as agricultural as a farmer could be painting his farm equipment every week, month or even every two months. Furthermore, he says that the Chief Civil Attorney stated that the business is operating currently by right. He says that he does not find an issue with the business.

Charles Kuether understands.

Rob Skawinski (02:29:35): says as owners, the Rockwell's have the right to put anything that they want that abides by the Regulations, which they have done. He says we cannot tell someone to desist because they block someone else's view. He says if a person wants to keep their view free from neighbors or any kind of growth, that person needs to buy all that land around them to prevent other people from building on it.

Michael Stone (02:29:58): says the Planning Department and the Zoning Board of Adjustments do not have authority over civil disputes but does have authority over some land-use problems. He says that Rockwell Scales is in the Agricultural District, which allows for some industrial uses. He says that the Rockwell's have gone beyond what is required of them by our Zoning Regulations. He recommends that the staff do a finding of a fact of what they have been approved for in the application and if they are currently meeting those approved conditions.

Charles Kuether (02:32:08): says that original approved conditions for approval state that the applicant must put the appropriate landscaping requirements around the perimeter. He says that he finds that today that they are just asking for Mr. Rockwell to finish building his fence to conceal his business equipment and material outside of the shop. He says that he takes issue with Mr. Stone stating that they have gone beyond their requirements when they have not finished their fence.

Michael Stone (02:33:14): says that it is unreasonable for the applicant to have to cover all his land with fencing. He says that all of the findings should be written down.

Eileen Hyndman (02:34:37): says there is a letter from the Commissioners outlining the appropriate landscaping requirements. She says that Mr. Rockwell does not need to cover his whole land with fencing, but he does need to conceal his work equipment. She says that she wants to talk about some of the accusations made here today.

Some of the Board members discuss with one another about Mrs. Hyndman needs to sit down as the public hearing portion of the meeting has been closed and that the Board is trying to discuss an appropriate motion or action to take.

Bill Austin (02:35:21): says, "I think, I think we are going to ask you to—you've already, we already know what you want, and I don't think that there is much more really that we can listen to that's going to change what you are wanting. So, we thank you for coming and thanks for bringing this to our attention, and we'd like to excuse you now."

Eileen Hyndman says that she does not want to sit down and that she would like to discuss the accusations that she says has been made against her today. The Chief Civil Attorney, Carey Ann Haight, explains to her politely that she needs to sit down as they are in the middle of a Board discussion only. Ms. Hyndman complies by sitting back down.

Charles Kuether (02:36:06): asks Carey Ann Haight what her recommended approach to this situation is.

Carey Ann Haight (02:36:30): says that she is fine with Mr. Kuether's proposed motion. She says when that deadline passes then they can contact the applicant and explain to the Board why it has not been done. Then, they could enter into a planned correction/compliance plan or issue a violation.

Charles Kuether (02:37:41): asks how you would write that into a motion.

Bill Austin (02:37:40): asks if they got all of what was said written down.

Charles Kuether (02:37:48): says that he has it all written down.

Rob Skawinski seconds the motion.

All in favor, motion carries 4-0.⁹

Charles Kuether (02:37:55): asks if Mr. Rockwell gets the job done early to please let the Planning staff know

Some of the Board members discuss with one another and with the applicant.

6. BOARD MATTERS: None.
7. PUBLIC COMMENTS REGARDING BOARD MATTERS: NONE.
8. ADJOURNMENT:
 - Rob Skawinski makes a motion to adjourn.
 - Bill Austin seconds the motion.
 - All in favor 4-0, meeting adjourned at 11:41 AM*

⁹ The record reflects the present number of board members who were present during the vote. Since Michele Levine left shortly after the approval of SUP 013-2019. The number of board members present during a vote was decreased from five (5) to four (4).